

STATE OF MICHIGAN
COURT OF APPEALS

In re DIEPENHORST, Minors.

UNPUBLISHED
February 19, 2015

No. 322079
Wayne Circuit Court
Family Division
LC No. 14-515393 - NA

Before: MURRAY, P.J., and HOEKSTRA and WILDER, JJ.

PER CURIAM.

Respondent appeals by right the trial court order terminating her parental rights to the minor children under MCL 712A.19b(3)(b)(i), (g), and (j). We affirm.

On appeal, respondent contends that the trial court clearly erred in terminating her parental rights because there was not clear and convincing evidence to support the statutory grounds for termination. MCR 3.977(K); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999). A statutory ground for termination may be established by a plea of admission. MCR 3.971(A). The court may also consider legally admissible evidence introduced at the trial, at the plea proceedings, or at the dispositional hearing. MCR 3.977(E)(3).

At the adjudication trial respondent stipulated to the petitioner's evidence and made admissions on the record to establish the statutory basis for termination of her parental rights. Her appellate argument that the evidence supporting termination was not clear and convincing is directly contrary to her admissions. "Respondent may not assign as error on appeal something that she deemed proper in the lower court because allowing her to do so would permit respondent to harbor error as an appellate parachute." *In re Hudson*, 294 Mich App 261, 264; 817 NW2d 115 (2011). Respondent's stipulation to grounds for termination precludes her from challenging the sufficiency of the evidence supporting termination.

In any event, having reviewed the entire record we nonetheless conclude that the trial court did not clearly err in finding clear and convincing evidence to support the statutory grounds for termination of respondent's parental rights. Respondent admitted that there was an abusive environment of domestic violence that the children witnessed almost on a daily basis, exposing them to harm, which is a sufficient basis to support the termination of parental rights. *In re Plump*, 294 Mich App 270, 273; 817 NW2d 119 (2011). Respondent also admitted that the children had witnessed her engaging in sexual activity with the brothers with whom she lived. Additionally, the children made statements to their stepmother and to professionals about being sexually abused by these brothers, and the medical personnel and trained professionals at Kids

Talk were convinced that the children had been sexually abused. Respondent had custody of the children at the time and was responsible for their care and safety. Therefore, there was clear and convincing evidence to support termination under MCL 712A.19b(3)(b)(ii).

There was also clear and convincing evidence to support termination under MCL 712A.19b(3)(g) and (j). Respondent remained in an abusive environment where her children witnessed her being physically abused and her having sexual activity. Under respondent's care, the children were sexually abused by the men with whom she resided. In addition, the children alleged that they were not fed on a regular basis. Thus, there was clear and convincing evidence to support the court's holding that respondent had failed to provide proper care or custody for her children and that there was no reasonable expectation that respondent would be able to provide proper care and custody within a reasonable time considering the children's ages.¹

Affirmed.

/s/ Christopher M. Murray

/s/ Joel P. Hoekstra

/s/ Kurtis T. Wilder

¹ Respondent's brief on appeal contains one sentence stating, without citation to the record or any applicable law, that "the evidence did not establish that termination was contrary to the children's best interest." That is an insufficient way to raise an argument to this Court. *Price v McDonald*, 237 Mich App 186, 197; 602 NW2d 834 (1999).